

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHAEL NIEVES,

Plaintiff,

-against-

THE CITY OF NEW YORK,

Defendant.

20-CV-2138 (LLS)

ORDER OF DISMISSAL

LOUIS L. STANTON, United States District Judge:

Plaintiff, appearing *pro se* and proceeding *in forma pauperis* (IFP), brought this civil action alleging that he was falsely arrested, falsely imprisoned, and maliciously prosecuted. He alleged that he was arrested on January 21, 2014, and on August 11, 2015, the charges were dismissed. Plaintiff attached to his complaint copies of a summons dated August 8, 2016, and a complaint, filed in New York State Supreme Court, Bronx County, by Plaintiff's attorney, Andrew F. Plasse of Andrew F. Plasse & Associates, LLP. The state-court action asserts the same facts asserted here — that Plaintiff was arrested on January 21, 2014, and the criminal charges were subsequently dismissed on August 11, 2015. A review of the records of the New York State Unified Court System revealed that the state-court matter is scheduled for trial on November 2, 2020. *See Nieves v. City of New York*, Index No. 25346/2016 (Sup. Ct. Bx. Cnty).

Because Plaintiff is already litigating his false arrest, false imprisonment, and malicious prosecution claims in state court, by order dated August 26, 2020, the Court ordered Plaintiff to show cause, within 30 days, why the Court should not abstain from exercising jurisdiction over this action, pursuant to *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976) (a federal court may abstain from exercising jurisdiction in the interest of wise judicial administration and conservation of resources). (ECF No. 9.) The Court also ordered Plaintiff to

show cause why this action should not be dismissed as time barred and dismissed Plaintiff's claims again Andrew F. Plasse. (*Id.*) The order cautioned Plaintiff that if he did not respond to the order within 30 days, the Court would abstain from exercising jurisdiction under the *Colorado River* doctrine. Plaintiff has not responded to the Court's August 26, 2020 order.

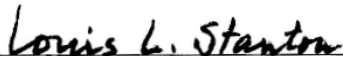
### CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

Plaintiff's complaint, filed IFP under 28 U.S.C. § 1915(a)(1), is dismissed because the Court abstains from exercising jurisdiction over this action under the *Colorado River* doctrine.<sup>1</sup>

SO ORDERED.

Dated: October 15, 2020  
New York, New York

  
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Louis L. Stanton  
U.S.D.J.

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<sup>1</sup> If Plaintiff's claims were not barred by the *Colorado River* doctrine, the Court would likely dismiss Plaintiff's claims as time barred.